LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

October 5, 2006

The Marlboro Township Council held its regularly scheduled meeting on October 5, 2006 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Morelli opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of the regularly scheduled meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on January 3, 2006; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Council Vice President Cantor, Councilman Pernice, Councilman Rosenthal, Councilwoman Tragni and Council President Morelli.

Also present were: Mayor Robert Kleinberg, Andrew Bayer, Esq., Municipal Clerk Alida DeGaeta, and Deputy Clerk Deborah Usalowicz.

Res. #2006-363/Ord. #2006-31 (Amend Chapter 84 – Pools – Drainage Requirements) was tabled to the October 19th agenda. Motion to table was made by Councilman Pernice, seconded by Council President Morelli and passed on a roll call vote of 5 – 0 in favor of tabling.

Council President Morelli opened the Public Hearing on Ordinance # 2006-32 (Amending Section 84-29B – Rezoning Certain Lots to C-4). After the Public Hearing was held and closed, the following Res. #2006-364/Ord. #2006-32 (Amending Section 84-29B – Rezoning Certain Lots to C-4) was tabled to

October 19th. Motion to table was made by Council President Morelli, seconded by Councilman Rosenthal, and passed on a roll call vote of 5 – 0 in favor of tabling.

The following Res. #2006-365/Ord. #2006-33 (Amending Stormwater Impact or Improvement Fund) was introduced by reference, offered by Councilman Pernice, seconded by Council President Morelli and passed on a roll call vote of 5 – 0 in favor. Township Planner Jennifer Beahm was present for discussion and answered all Council's questions.

RESOLUTION # 2006-365

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2006-33

AN ORDINANCE ADDING A NEW SECTION 84-14.4 "STORMWATER IMPROVEMENT FEES" TO ARTICLE II "LAND USE PROCEDURES", CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS" OF THE CODE OF THE TOWNSHIP OF MARLBORO

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on October 19, 2006 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2006-33

AN ORDINANCE ADDING A NEW SECTION 84-14.4 "STORMWATER IMPROVEMENT FEES" TO ARTICLE II "LAND USE PROCEDURES", CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS" OF THE CODE OF THE TOWNSHIP OF MARLBORO

WHEREAS, the Township Council of the Township of Marlboro, through the assistance of Birdsall Engineering, Inc., performed a thorough inspection of the Matchaponix Brook, Yellow Brook, Deep Run and Big Brook watersheds to identify existing watershed/water quality impairments and to recommend Best Management Practices (BMPs) that should be

implemented to address the source of the impairment or mitigate the impacts of the impairment; and

WHEREAS, the inspection determined that continued development within the Township has had a major impact on watershed and water quality impairments within the Township; and

WHEREAS, the Township has recently adopted a new stormwater management ordinance which establishes minimum stormwater management design standards for certain development within the Township to address watershed and water quality impairments; and

WHEREAS, it is the finding of the Township Council of the Township of Marlboro that it is appropriate to charge applicants for major development within the Township an Improvement Fee to mitigate the impacts of the development on water resources within the Township; and

WHEREAS, the Township further finds it appropriate to establish a maintenance guarantee for the maintenance and repair of approved stormwater management facilities as required under the provisions of the Stormwater Management Ordinance, Code Section 84-104 through 84-104.11 in compliance with Municipal Land Use Law, N.J.S.A. 40:55D-53.

NOW THEREFORE, BE AND IT IS HEREBY ORDAINED by the Mayor and Council of the Township of Marlboro, County of Monmouth, State of New Jersey that Fee Schedule C: Stormwater Improvement Fees be established and be located immediately following Schedule B: Escrow Fees within the Township of Marlboro Land Use Development and Regulations (Chapter 84) and shall read as follows:

Fee Schedule C: Stormwater Improvement Fees

Marlboro Township
Land Use Fee Schedule C
Stormwater Improvement Fees

Type of Development	Fee
Residential Development	$2,000.00 per dwelling unit
Non Residential Development	

Less than 1,000 square feet of gross floor area	$2,000.00
1,001 to 5,000 square feet of gross floor area	$5,000.00
5,001 to 10,000 square feet of gross floor area	$7,500.00
10,001 to 15,000 square feet of gross floor area	$10,000.00
15,001 to 25,000 square feet of gross floor area	$17,500.00
25,001 to 100,000 square feet of gross floor area	$22,000.00
Greater than 100,000 square feet of gross floor area	$45,000.00

BE IT FURTHER ORDAINTED, that subsection “dd” entitled, “Stormwater Impact and Facilities Improvement Fund,” located within “Land Use Fees Schedule A: Non Refundable Fees” within Chapter 84 of the Code of the Township of Marlboro be hereby removed in its entirety to prevent conflict with Fee Schedule C.

BE IT FURTHER ORDAINTED, by the Township Council of the Township of Marlboro, County of Monmouth that a new section entitled 84-14.4 “Stormwater Management Impact Fees” shall be added to Chapter 84 “Land Use Development and Regulations,” Article II, “Land Use Procedures,” and shall read in its entirety as follows:

A. The fees required by Schedule C shall be for the purpose of reimbursing the Township for direct fees, costs, charges and expenses for administrative, clerical, technical, and maintenance costs, of in-house staff and professional consultants such as legal, planning, engineering and other professional fees, costs and expenses exclusively for the implementation of watershed and water quality mitigation plans.

B. The fees set forth under Schedule C shall be required prior to approval of any application for major development as defined within Code Section 84-104, et seq. submitted to the Township, its boards, commissions or agencies.

C. In addition to the fees set forth within Schedule C, all development, which requires a stormwater management facility as determined under Code Section 84-104, et seq. shall be required to post a fee or maintenance guarantee pursuant to the following provisions:

1. All required maintenance, as set forth within this section shall be in accordance with an approved maintenance plan as required under Code Section 84-104, et seq..

2. For any development, which requires a stormwater management facility as determined under Code Section 84-104, et seq. and consists of more than two (2) residential dwelling units, but less than twenty (20) residential dwelling units, responsibility for maintenance for said stormwater facility shall be assigned to the Township. The maintenance fee for said stormwater facility shall be calculated as set forth under subsection seven (7) below and shall be for a period of twenty-five (25) years.

3. For any development, which requires a stormwater management facility as determined under Code Section 84-104, et seq., and consists of more than twenty (20) residential units, responsibility for maintenance of said stormwater management facility shall be assigned to a homeowners association established for said development. The maintenance guarantee for said stormwater facility shall be posted on behalf of the homeowners association and calculated in accordance with subsection seven (7) below for a period of twenty-five (25) years.

4. For any development, which requires a stormwater management facility as determined under Code Section 84-104, et seq., and consists one (1) or more nonresidential uses, responsibility for maintenance of said stormwater management facility shall be assigned to the owner of the site. A maintenance guarantee for said stormwater facility shall be posted in accordance with subsection seven (7) below for a period of twenty-five years (25).

5. Responsibility for operation and maintenance of detention facilities, including periodic removal and disposal of accumulated particulate material and debris, shall remain with the owner or owners of the property with permanent arrangements that it shall pass to any successive owner, unless assumed by a government agency. If portions of the land are to be sold, legally binding arrangements shall be made to pass the basic responsibility to successors in title. These

arrangements shall designate for each project the property owner, governmental agency or other legally established entity to be permanently responsible for maintenance, hereinafter in this section referred to as the "responsible person."

6. Prior to granting final approval to any project subject to review under this section, the applicant shall enter into an agreement with the municipality (or county) to ensure the continued operation and maintenance of the detention facility. This agreement shall be in a form satisfactory to the Township Attorney and may include, but may not necessarily be limited to, personal guaranties, deed restrictions, covenants and bonds. In cases where property is subdivided and sold separately, a homeowners' association or similar permanent entity should be established as the responsible entity, absent an agreement by a governmental agency to assume responsibility.

7. An applicant seeking approval for construction of a detention facility shall provide the funds necessary to maintain the facility for a period of twenty-five (25) years. The amount necessary to maintain the facility shall be calculated by the Planning Board Engineer and Director of Public Works based upon current estimates for maintenance with an annual increase of 4%. The Planning Board Engineer and Director of Public Works shall also assume that the investment will yield a return equal to the ninety-day certificate-of-deposit interest rate paid by the First Fidelity Bank or its successor on the date the calculation is made.

8. The form of security for the maintenance of the facility shall be approved by the Municipal Attorney.
9. In the event that the detention facility becomes a danger to public safety or public health or if it is in need of maintenance, the municipality shall so notify in writing the responsible person. From that notice, the responsible person shall have 14 days to effect such maintenance and repair of the facility in a manner that is approved by the Township Engineer or his designee. If the responsible person fails or refuses to perform such maintenance and repair, the municipality may proceed to do so and shall bill the cost thereof to the responsible person.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage, publication and approval in accordance with applicable law.

The following Res. #2006-368/Ord. #2006-36 (Acquisition of Property – B. 120, Lot 36 (Geoghegan Property) was introduced by reference, offered by Council President Morelli, seconded by Councilman Rosenthal and passed on a roll call vote of 5 – 0 in favor.

RESOLUTION # 2006-368

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2006-36

AN ORDINANCE AUTHORIZING THE TOWNSHIP TO PURCHASE THE PROPERTY LOCATED AT 82 TENNENT ROAD, MARLBORO TOWNSHIP, BLOCK 120, LOT 36 FOR PUBLIC PURPOSES

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on October 19, 2006 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2006-36

AN ORDINANCE AUTHORIZING THE TOWNSHIP TO PURCHASE THE PROPERTY LOCATED AT 82 TENNENT ROAD, MARLBORO TOWNSHIP, BLOCK 120, LOT 36 FOR PUBLIC PURPOSES

WHEREAS, pursuant to the Local Land and Buildings Law, N.J.S.A. 40A:12-5, the Township of Marlboro has the power to acquire any real property for public purposes by purchase or other authorized means; and

WHEREAS, the Township desires to purchase the property located at 82 Tennent Road, Morganville, Marlboro Township, New Jersey, Block 120, Lot 36 (the "Property") for open space purposes; and

WHEREAS, following negotiations, the Township and the owners of the Property have agreed that the amount to be paid for the Property shall be $450,000.00.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that the Mayor is authorized to purchase the Property for a total amount not to exceed $450,000.00 and to execute an Agreement of Sale and all other documents necessary to effectuate the transfer of title for the Property to the Township; and

BE IT FURTHER ORDAINED that the Chief Financial Officer has executed a Certification of Funds for the purchase of the Property, which is attached hereto, and that sufficient funds are available for said purchase from the open space account; and

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

The following Res. #2006-366/Ord. #2006-34 (Amending Background Checks for Recreation Volunteers) was introduced by reference, offered by Council President Morelli, seconded by Council Vice President Cantor and passed on a roll call vote of 5 – 0 in favor.

RESOLUTION # 2006-366

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2006-34

AN ORDINANCE AMENDING CHAPTER 56 “CRIMINAL BACKGROUND CHECKS” OF THE CODE OF THE TOWNSHIP OF MARLBORO

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on October 19, 2006 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2006-34

AN ORDINANCE AMENDING CHAPTER 56 “CRIMINAL BACKGROUND CHECKS” OF THE CODE OF THE TOWNSHIP OF MARLBORO

WHEREAS, the Marlboro Recreation Commission administers and funds certain athletic and camp programs for the youth of the Township of Marlboro; and

WHEREAS, through these programs, certain adult volunteers and employees have direct, unsupervised contact with minors; and

WHEREAS, by Ordinance #2006-13 (the “Ordinance”), the Township Council required that all coaches, assistant coaches and seasonal employees with direct unsupervised access to minors through Marlboro Recreation Commission Programs be required to submit to a criminal history background check; and

WHEREAS, the Ordinance provided that a background check revealing a conviction of certain crimes would disqualify the individual from being a coach, assistant coach and/or seasonal employee with direct unsupervised access to minors through Marlboro Recreation Commission Programs; and

WHEREAS, the Ordinance also provided for an appeals process by a Review Committee based upon certain criteria; and

WHEREAS, in accordance with the Ordinance, the Township Council contracted with National Center for Safety Initiatives ("NCSI") to perform the criminal history background checks; and

WHEREAS, NCSI has its own established process by which an individual can dispute the inaccuracy or incompleteness of a criminal background check; and

WHEREAS, it has been recommended that certain additional disqualifying criminal offenses be added to the Ordinance; and

WHEREAS, it has also been recommended that, in order to avoid inconsistencies between the appeals process provided in the Ordinance and the process established by NCSI for disputing the inaccuracy or incompleteness of a criminal history background check, the Ordinance be amended to broadly refer to an individual's right to dispute the accuracy or completeness of the results of a criminal history background check and to remove the specific details of the appeals process.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, in the County of Monmouth and State of New Jersey Section 56-6 "Disqualification from Service" of "Chapter 56, Criminal Background Checks" be and hereby is amended as follows:

Subsection A shall be amended to include the following additional criminal offenses as A.5 through A.7:

"5. Involving domestic violence as set forth in N.J.S.A. 2C:25-1, *et seq.;*

6. Involving arson, criminal mischief and other property destruction as set forth in N.J.S.A. 2C:17-1, *et seq.;*

7. Involving burglary and other criminal intrusion as set forth in N.J.S.A. 2C:18-1, *et seq*.; or"

The previous subsection A.5 shall be recodified as A.8 and shall read as follows:

"8. In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly person's offenses described in subsections 1 through 7."

BE IT FURTHER ORDAINED that the definition of “Review Committee” set forth in Section 56-1 “Definitions” shall be deleted in its entirety; and

BE IT FURTHER ORDAINED that the last sentence of Section 56-7 “Results; Determination of Disqualification” shall be revised to read as follows: “The written notice shall also state that the individual shall have the right to dispute inaccurate or incomplete information contained in the Criminal History Background Check.”

BE IT FURTHER ORDAINED that Section 56-8 “Disqualification Appeals Process” shall be retitled and revised in its entirety to read as follows:

“§ 56-08 Right to Dispute.

Any current or prospective Employee or Volunteer shall have the right to dispute inaccurate or incomplete information contained in the Criminal History Background Check, pursuant to a process approved by the Recreation Commission.”

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect on upon passage and publication in accordance with applicable law.

The following Res. #2006-367/Ord. #2006-35 (Amending Stormwater Impact Management Plan) was introduced by reference, offered by Council President Morelli, seconded by Councilman Pernice and passed on a roll call vote of 5 – 0 in favor.

RESOLUTION # 2006-367

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2006-35

AN ORDINANCE DELETING SECTION 84-104 “STORMWATER MANAGEMENT”, ARTICLE VIII “SUBDIVISIONS: DESIGN AND PERFORMANCE STANDARDS”, CHAPTER 84 “LAND USE DEVELOPMENT AND REGULATIONS” OF THE CODE OF THE TOWNSHIP OF MARLBORO AND ADOPTING NEW SECTIONS 84-104 THROUGH 84-104.11 CONCERNING STORMWATER MANAGEMENT

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on October 19, 2006 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2006-35

AN ORDINANCE DELETING SECTION 84-104 “STORMWATER MANAGEMENT”, ARTICLE VIII “SUBDIVISIONS: DESIGN AND PERFORMANCE STANDARDS”, CHAPTER 84 “LAND USE DEVELOPMENT AND REGULATIONS” OF THE CODE OF THE TOWNSHIP OF MARLBORO AND ADOPTING NEW SECTIONS 84-104 THROUGH 84-104.11 CONCERNING STORMWATER MANAGEMENT

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that Section 84-104 ”Stormwater Management” of Chapter 84 “Land Use Development and Regulations” of the Code of the Township of Marlboro be and hereby is deleted in its entirety; and

BE IT FURTHER ORDAINED, that a new Sections 84-104 through 84-104.11 be added to Chapter 84 “Land Use Development and Regulations” and shall read in their entirety as follows:

§ 84-104. Scope and Purpose.

Policy Statement

Flood control, groundwater recharge, and pollutant reduction through nonstructural or low impact techniques shall be explored before relying on structural BMPs. Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that

prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated quantity or amount of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

Purpose

It is the purpose of Sections 84-104 through 84-104.11 to establish minimum stormwater management requirements and controls for “major development,” as defined in § 84-105.

C. Applicability

1. Sections 84-104 through 84-104.11 shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:
    a. Non-residential major developments; and
    b. Aspects of residential major developments that are not regulated by the Residential Site Improvement Standards at N.J.A.C. 5:21.
2. Sections 84-104 through 84-104.11 shall also be applicable to all major developments undertaken by Township of Marlboro.

D. Compatibility with Other Permit and Ordinance Requirements

Development approvals issued for subdivisions and site plans pursuant to this article are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of Sections 84-104 through 84-104.11 shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. Sections 84-104 through 84-104.11 are not intended to interfere with or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall apply.

§ 84-104.1. Definitions.

Unless specifically defined below, words or phrases used in Sections 84-104 through 84-104.11 shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

"**Agricultural development**" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

"**Compaction**" means the increase in soil bulk density.

"**Core**" means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

"**County Review Agency**" means an agency designated by the County Board of Chosen Freeholders to review the Township of Marlboro's stormwater management plans and implementing ordinance(s). The county review agency may either be:
A county planning agency; or
A county water resource association created under N.J.S.A 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

"**Department**" means the New Jersey Department of Environmental Protection.

"**Design engineer**" means a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

"**Development**" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, by any person, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. In the

case of development of agricultural lands, development means: any activity that requires a State permit; any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act , N.J.S.A 4:1C-1 et seq.

“**Drainage area**” means a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody. “Environmentally critical areas” means an area or feature which is of significant environmental value, including but not limited to: stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department’s Landscape Project as approved by the Department’s Endangered and Nongame Species Program.

“**Erosion**” means the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

“Flood Hazard Area” Area of potential risk due to sudden and temporary increase of surface water flow due to a storm event, typically, the 100-year storm.

“**Impervious surface**” means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

“**Infiltration**” is the process by which water seeps into the soil from precipitation.
“**Major development**” means any “development” that provides for ultimately disturbing one or more acres of land or results in a net increase of one-quarter (1/4) acre or more of impervious surface. Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation.

“Mitigation” means an action by an applicant-providing compensation or offset actions for onsite stormwater management requirements where the applicant has demonstrated the inability or impracticability of strict compliance with the stormwater management requirements set forth in NJAC 7:8, in an adopted regional stormwater management plan, or in this local ordinance, and has received a waiver from strict compliance from the municipality. Mitigation, for the purposes of this ordinance, includes both the mitigation plan, detailing how the projects applicants failure to

strictly comply will be compensated, and the implementation of the approved mitigation plan within the same HUC-14 subwatershed within which the subject project is proposed (if possible and practical), or a contribution of funding toward a regional stormwater management plan, or provision for equivalent treatment at an alternative location, or other equivalent water quality benefit.

"**Municipality**" means Marlboro Township.

"**Node**" means an area designated by the State Planning Commission concentrating facilities and activities that are not organized in a compact form.

"**Nutrient**" means a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

"**Person**" means any individual, corporation, company, partnership, firm, association, the Township of Marlboro or political subdivision of this State subject to municipal jurisdiction pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

"**Pollutant**" means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. "Pollutant" shall include both hazardous and non-hazardous pollutants.

"**Recharge**" means the volume of water from precipitation that infiltrates into the ground and is not evapotranspired.

"**Sediment**" means solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

"**Site**" means the lot or lots upon which a development is to occur or has occurred.

"**Soil**" means all unconsolidated mineral and organic material of any origin.

“**Solid and floatable materials**” means sediment, debris, trash, and other floating, suspended, or settleable solids.

“**State Development and Redevelopment Plan Metropolitan Planning Area (PA1)**” means an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the state’s future redevelopment and revitalization efforts.

“**State Plan Policy Map**” is defined as the geographic application of the State Development and Redevelopment Plan’s goals and statewide policies, and the official map of these goals and policies.

“**Stormwater**” means water resulting from precipitation (including rain and snow) that runs off the land’s surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

“**Stormwater runoff**” means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

“**Stormwater management basin”** means an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

“**Stormwater management measure**” means any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

"**Time of concentration**" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;

“Total suspended soils” is the sum of dissolved and undisolved solids and particulate matter of a buoyancy and/or specific gravity that prohibits their settling in runoff.

“**Waters of the State**” means the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or ground water,

whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

“**Wetlands**” or “**wetland**” means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

§ 84-104.2. General Standards.

A. Design and Performance Standards for Stormwater Management Measures

1. Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards in § 84-104.3 To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.

2. The standards in Sections 84-104 through 84-104.11 apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.

§ 84-104.3. Stormwater Management Requirements for Major Development.

A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with § 84-104.9.

B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department’ Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.104, particularly Helonias bullata (swamp pink) and/or Clemmys muhlnebergi (bog turtle).

C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of § 84-104.3(F) and (G):

1. The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;
2. The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and
3. The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14-feet, provided that the access is made of permeable material.

D. A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of § 84-104.3(F) and (G) may be obtained for the enlargement of an existing public roadway; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:

1. The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;
2. The applicant demonstrates through an alternatives analysis, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of § 84-104.3(F) and (G) to the maximum extent practicable;
3. The applicant demonstrates that, in order to meet the requirements of § 84-104.3(F) and (G), existing structures currently in use, such as homes and buildings, would need to be condemned; and
4. The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under D.3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of § 84-104.3(F) and (G) that were not achievable on-site.

E. Nonstructural Stormwater Management Strategies

1. To the maximum extent practicable, the standards in § 84-104.3(F) and (G) shall be met by incorporating nonstructural stormwater management strategies set forth at § 84-104.3(E) into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in § 84-104.3(E)(2) below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.

2. Nonstructural stormwater management strategies incorporated into site design shall:
   a. Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
   b. Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;
   c. Maximize the protection of natural drainage features and vegetation;
   d. Minimize the decrease in the time of concentration from pre-construction to post construction.
   e. Minimize land disturbance including clearing and grading;
   f. Minimize soil compaction;
   g. Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;
   h. Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;
   i. Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:
      (1) Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy § 84-104.3(E)(3) below;
      (2) Site design features that help to prevent discharge of trash and debris from drainage systems;

(3) Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
(4) When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.

3. Site design features identified under § 84-04.3(E)(2)(i)(2) above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For exemptions to this standard see § 84-104.3(4)(E)(3)(c) below.

a. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

(1) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or
(2) A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension. Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

b. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more

than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

c. This standard shall not apply under the following conditions or situations:
   (1) Where the Township Engineer determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;
   (2) Where flows from the water quality design storm as specified in § 84-104.3(G)(1) are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
      (a) A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or
      (b) A bar screen having a bar spacing of 0.5 inches.
   (3) Where flows are conveyed through a trash rack that has parallel bars with one-inch (1”) spacing between the bars, to the elevation of the water quality design storm as specified in § 84-104.3(G)(1); or
   (4) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

4. Any land area used as a nonstructural stormwater management measure to meet the performance standards in § 84-104.3(G) and (F) shall be dedicated to a government agency, subjected to a conservation restriction filed with the Office of the Monmouth County Clerk, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure

approved by the Township Engineer is maintained in perpetuity.

5. Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in § 84-104.6, or found on the Department's website at www.njstormwater.org.

F. Erosion Control, Groundwater Recharge and Runoff Quantity Standards

1. This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.

a. The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.

b. The minimum design and performance standards for groundwater recharge are as follows:

(1) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at § 84-104.4, either:

(a) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site; or

(b) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm is infiltrated.

(2) This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to (3) below.

(3) The following types of stormwater shall not be recharged:

(a) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than “reportable quantities” as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and

(b) Industrial stormwater exposed to “source material.” “Source material” means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

(4) The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity

or down gradient of the groundwater recharge area.

c. In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at § 84-104.4, complete one of the following:

(1) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two, 10, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;

(2) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the two, 10, and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;

(3) Design stormwater management measures so that the post-construction peak runoff rates for the 2, 10 and 100 year storm events are 04, 75 and 80 percent, respectively, of the preconstruction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed. The percentages shall not be applied to post-construction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or

2. Any application for a new agricultural development that meets the definition of major development at § 84-104.1 shall be submitted to the Freehold Soils Conservation District (FSCD) for review and approval in accordance with the requirements of this section and any applicable

FSCD guidelines for stormwater runoff quantity and erosion control.

G. Stormwater Runoff Quality Standards

1. Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80 percent of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 1/4-acre of impervious surface is being proposed on a development site. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 1. The calculation of the volume of runoff may take into account the implementation of non-structural and structural stormwater management measures.

Table 1: Water Quality Design Storm Distribution

Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
0	0.0000	65	0.8917
5	0.0083	70	0.9917
10	0.0166	75	1.0040
15	0.0204	80	1.0840
20	0.0040	85	1.1170
25	0.0704	90	1.1040
30	0.1000	95	1.1704
35	0.1330	100	1.2000
40	0.1660	105	1.2204
45	0.2000	110	1.2334
04	0.2583	115	1.2417
55	0.3583	120	1.2040
60	0.6204		

2. For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in § 84-104.6, or found on the Department's website at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in § 84-104.6. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency.

3. If more than one BMP in series is necessary to achieve the required 80 percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (AB)/100$$

Where

R = total TSS percent load removal from application of both BMPs, and

A = the TSS percent removal rate applicable to the first BMP

B = the TSS percent removal rate applicable to the second BMP

Table 2: TSS Removal Rates for BMPs

Best Management Practice	TSS Percent Removal Rate (Percent)
Bioretention Systems	*90*
Constructed Stormwater Wetland	*90*
Extended Detention Basin	*40-60*
Infiltration Structure	*80*
Manufactured Treatment Device	*See Section 6.C*
Sand Filter	*80*

Vegetative Filter Strip	*60-80*
Wet Pond	*04-90*

4. If there is more than one onsite drainage area, the 80 percent TSS removal rate shall apply to each drainage area, unless the runoff from the subareas converge on site in which case the removal rate can be demonstrated through a calculation using a weighted average.

5. Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in § 84-104.6(F) and (G).

6. In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.

7. Special water resource protection areas have been established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas shave been established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:

    a. The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:
        (1) A 300-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or

from the centerline of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession.

(2) Encroachment within the designated special water resource protection area under Subsection (1) above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 104 feet as measured perpendicular to the top of bank of the waterway or centerline of the waterway where the bank is undefined. All encroachments proposed under this subparagraph shall be subject to review and approval by the Department.

b. All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard for Off-Site Stability in the “Standards For Soil Erosion and Sediment Control in New Jersey,” established under the Soil Erosion and Sediment Control Act , N.J.S.A. 4:24-39 et seq.

c. If stormwater discharged outside of and flowing through the special water resource protection area cannot comply with the Standard For Off-Site Stability in the “Standards for Soil Erosion and Sediment Control in New Jersey,” established under the Soil Erosion and Sediment Control Act , N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:

(1) Stabilization measures shall not be placed within 104 feet of the Category One waterway;

(2) Stormwater associated with discharges allowed by this section shall achieve a 95 percent TSS post-construction removal rate;

(3) Temperature shall be addressed to ensure no impact on the receiving waterway;

(4) The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;

(5) A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and

(6) All encroachments proposed under this section shall be reviewed and approved by the New Jersey Department of Environmental Protection prior to approval by the review agency

d. Paragraph G.8 does not apply to the construction of one individual single family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009.

§ 84-104.4. Calculation of Stormwater Runoff and Groundwater Recharge.

A. Stormwater runoff shall be calculated in accordance with the following:

1. The design engineer shall calculate runoff using one of the following methods:
   a. The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4 – Hydrology and Technical Release 55 – Urban Hydrology for Small Watersheds; or
   b. The Rational Method for peak flow and the Modified Rational Method for hydrograph computations.
2. For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term “runoff coefficient” applies to both the NRCS methodology at § 84-104.4(A)(1)(a) and the Rational and Modified Rational Methods at § 84-104.4(A)(1)(b). A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or

portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).

3. In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts, that may reduce pre-construction stormwater runoff rates and volumes.

4. In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 – Urban Hydrology for Small Watersheds and other methods may be employed.

5. If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

B. Groundwater recharge may be calculated in accordance with the following:

1. The New Jersey Geological Survey Report GSR-32 A Method for Evaluating Ground-Water Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at;
http://www.state.nj.us/dep/njgs/; or at
New Jersey Geological Survey, 29 Arctic Parkway
P.O. Box 427 Trenton, New Jersey 08625-0427.

C. Designs of stormwater conduit systems shall utilize the Sandy Hook, 25-year, Rainfall.

§ 84-104.5 Standards for Structural Stormwater Management Measures.

A. Standards for structural stormwater management measures are as follows:

1. Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas, wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).

2. Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one-inch (1″) spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third (1/3) the width of the diameter of the orifice or one-third (1/3) the width of the weir, with a minimum spacing between bars of one-inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of § 84-104.7(D).

3. Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement.

4. At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of two and one-half inches in diameter.

5. Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at § 84-104.7.

B. Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by § 84-104.3.

C. Manufactured treatment devices may be used to meet the requirements of § 84-104.3, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

§ 84-104.6. Sources for Technical Guidance

A. Technical guidance for stormwater management measures can be found in the documents listed at 1 and 2 below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; telephone (609) 777-1038.

1. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as:bioretention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.
   a. The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.
   b. Additional technical guidance for stormwater management measures can be obtained from the following:

1. The "Standards for Soil Erosion and Sediment Control in New Jersey" promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil

Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; (609) 292-5540;

2. The Rutgers Cooperative Extension Service, 732-932-9306; and

3. The Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4.
The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey, 08625, (609) 292-5540.

§ 84-104.7 Safety Standards for Stormwater Management Basins.

A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin.
The provisions of this section are not intended to preempt more stringent municipal or county safety requirements for new or existing stormwater management basins. Marlboro Township and Monmouth County stormwater management plans and ordinances may, pursuant to their authority, require existing stormwater management basins to be retrofitted to meet one or more of the safety standards in § 84-104.7(B)(1), (2) and (3) for trash racks, overflow grates, and escape provisions at outlet structures.

B. Requirements for Trash Racks, Overflow Grates and Escape Provisions

1. A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:
   a. The trash rack shall have parallel bars, with no greater than six inch spacing between the bars.
   b. The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.
   c. The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.

d. The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs/ft sq.

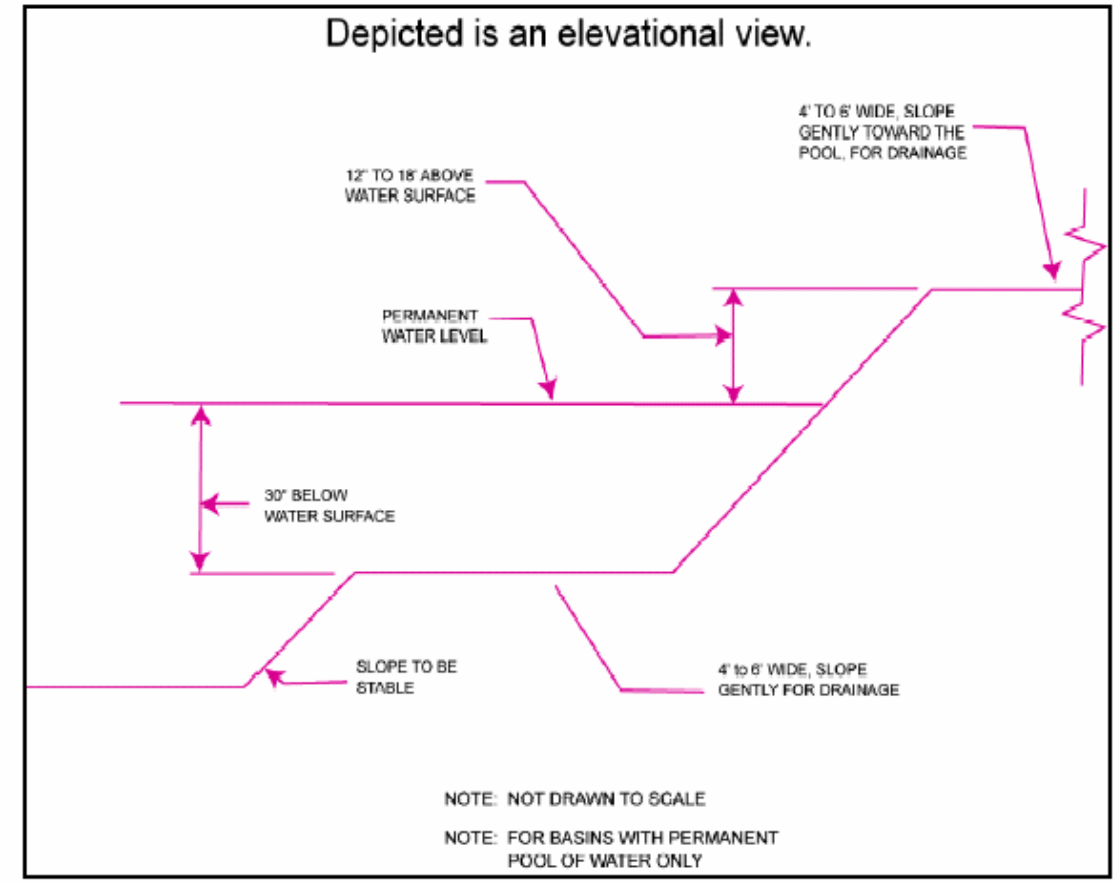
2. An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
   a. The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
   b. The overflow grate spacing shall be no less than two inches across the smallest dimension.
   c. The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs./ft sq.

3. For purposes of this paragraph 3, escape provisions means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:
   a. If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in § 84-104.7(C) a freestanding outlet structure may be exempted from this requirement.
   b. Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than two and one-half feet. Such safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. See § 84-104.7(D) for an illustration of safety ledges in a stormwater management basin.
   c. In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than 3 horizontal to 1 vertical.

C. Variance or Exemption from Safety Standards

1. A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency, The Township of Marlboro, the County of Monmouth or the Department, that the variance or exemption will not constitute a threat to public safety.

D. Illustration of Safety Ledges in a New Stormwater Management Basin



§ 84-104.8 Requirements for a Site Development Stormwater Plan.

A. Submission of Site Development Stormwater Plan

1. Whenever an applicant seeks municipal approval of a development subject to Sections 84-104 through 84-104.11, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at § 84-104.8(C) below as part of the submission of the applicant's application for subdivision or site plan approval.

2. The applicant shall demonstrate that the project meets the standards set forth in this ordinance.

3. The applicant shall submit [specify number] copies of the materials listed in the checklist for site development stormwater plans in accordance with § 84-104.8(C).

B. Site Development Stormwater Plan Approval - The applicant's Site Development project shall be reviewed as a part of the subdivision or site plan review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the engineer retained by the Planning and/or Zoning Board (as appropriate) to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.

C. Checklist Requirements - The following information shall be required:

1. Topographic Base Map
   The Township Engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.

2. Environmental Site Analysis
   - A written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide

particular opportunities or constraints for development.

3. Project Description and Site Plan(s)
   - A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high ground water elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.

4. Land Use Planning and Source Control Plan
   - This plan shall provide a demonstration of how the goals and standards of Sections 84-104.2 through 84-104.5 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.

5. Stormwater Management Facilities Map - The following information, illustrated on a map of the same scale as the topographic base map, shall be included:
   a. Total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
   b. Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

6. Calculations
   a. Comprehensive hydrologic and hydraulic design calculations for the pre-development and postdevelopment conditions for the design storms specified in § 84-104.3.

b. When the proposed stormwater management control measures (e.g., infiltration basins) depend on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

7. Maintenance and Repair Plan - The design and planning of the stormwater management facility shall meet the maintenance requirements of § 84-104.9.

8. Waiver from Submission Requirements - The Township Engineer or, if applicable, Board Engineer in consultation with the Township Engineer, may waive submission of any of the requirements in § 84-104.8(C)(1) through (C)(6) when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

§ 84-104.9 Maintenance and Repair.

A. Applicability

1. Projects subject to review as in § 84-104(C) shall comply with the requirements of § 84-104.9(B) and (C).

B. General Maintenance

1. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
2. The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners’ association) as having the responsibility for maintenance, the plan

shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.

3. Responsibility for maintenance shall not be assigned or transferred to the Township in a residential development or project. Responsibility for facilities located in commercial or industrial development sites shall be the owner of the site. A named individual shall be responsible for the safety and maintenance of said facility. The posting of a two year maintenance guarantee in accordance with N.J.S.A. 40:55D-53 shall be required for all facilities not dedicated to the Township or other public agency.
4. If the person responsible for maintenance identified under § 84-104.9(B)(2) above is not a public agency, the maintenance plan and any future revisions based on § 84-104.9(B)(7) below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
5. Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of nonvegetated linings.
6. The person responsible for maintenance identified under § 84-104.9(B)(2) above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders. This log shall be made available for inspection at the request of the Township, County, or the Department.
7. The person responsible for maintenance identified under § 84-104.9(B)(2) above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.
8. The person responsible for maintenance identified under § 84-104.9(B)(2) above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Sections 84-104.9(B)(6) an (B)(7) above.

9. The requirements of Sections 84-104.9(B)(3) an (B)(4) do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.

10. In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person.

B. Nothing in this section shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

§ 84-104.10 Penalties.

Any person who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of Sections 84-104 through 84-104.11 shall be subject to the following penalties:
Failure to comply with any provisions of this Section shall be considered a violation of the Coded Ordinances of the Township of Marlboro and shall be punishable by a fine of one thousand dollars ($1,000.00) or ninety (90) days in jail, or both. Each day of such violations continuance shall be considered as a separate offense and shall be separately punishable. These penalties shall not be in the exclusive remedy available, and nothing in this article shall prevent an applicant from obtaining injunctive relief.

§ 84-104.11 Mitigation Plan.

A. Standards

1. For the purposes of this Section, “Mitigation” shall incorporate the definition set forth in Section 84-104.1 and shall include situations where the applicant has demonstrated the inability or impracticality of strict compliance with the stormwater management requirements set forth in N.J.A.C 7:8 in addition to the requirements set forth in this ordinance.

2. The Board having jurisdiction over an application requiring a stormwater management plan shall have the jurisdiction to grant a waiver from strict compliance with the performance requirements of this ordinance or the Stormwater Management Plan. The waiver may be granted where an applicant has demonstrated the inability or impracticality of strict compliance with this article and/or the Stormwater Management Plan upon the following conditions. The applicant must demonstrate one of the following:
   (a) An inability to apply any of the Best Management Practices and methodologies as defined and approved herein and in the Stormwater Management Plan, due to an extraordinary and exceptional situation uniquely affecting the subject property or structures thereon, resulting in a peculiar and exceptional practical difficulty or undue hardship; or
   (b) That the purposes of Sections 84-104 through 84-104.11 and Stormwater Management Plan can be advanced by a deviation from the Best Management Practices and methodologies as defined and approved herein and in the Stormwater Management Plan, where the benefits of such deviation substantially outweigh any detriment.
3. In requesting a waiver as to any application, the applicant may submit as reasons for the waiver the site conditions of the proposed project, including soils types; thin soil cover; low permeability soils, and/or shallow depths to groundwater (high groundwater levels), unique conditions which would create an unsafe design, or conditions which would provide a detrimental impact to public health, welfare, or safety.
4. The waiver cannot be granted due to conditions created by the applicant. If the applicant can comply with the requirements of Sections 84-104 through 84-104.11 and Stormwater Management Plan through reducing the size of a project, the hardship is self imposed, and therefore the Board lacks jurisdiction to grant any waiver under this section.
5. The applicant must propose a suitable mitigation method through the submission of a mitigation plan which will conform as closely as possible to the design and performance standards of this ordinance, through structural or non-structural stormwater management measures, governing stormwater quality, quantity, and ground water recharge. approval of a waiver or exemption from any one of the three stormwater design standard criteria which include groundwater recharge, water

quality, and water quantity provides no guarantee that, if requested, an exemption or waiver will be granted for either or both of the remaining criteria.

6. Supporting evidence for an exemption or waiver shall be prepared in the form of a "stormwater management report" which will be signed and sealed by a New Jersey licensed professional engineer. The report shall include at a minimum:
   (a) Detailed hydrologic and hydraulic calculations identifying the sizing criteria for each BMP and the stormwater collection system based upon the anticipated peak flow and/or volume.
   (b) A map of the planned project showing existing conditions with drainage boundaries and land features, including delineated wetlands, proposed improvements, including all BMPs, grading, utilities, impervious features, and landscaping.
   (c) Construction details for each BMP with appropriate contact information.

B. Mitigation Criteria.

The mitigation requirements listed below offer a hierarchy of options that are intended to offset the effect on groundwater recharge, stormwater quantity control, and/or stormwater quality control to an equal or greater extent than was created by the granting of a waiver or exemption from the stormwater management requirements.

The mitigation criteria are listed below in order of preference:

1. Identify, design, and implement a compensating measure to mitigate impacts- The preferred option is to identify and develop a compensating mitigation project in the same drainage area as the proposed development. In these cases, the applicant will address the same issue within the design and performance standards for which the variance or exemption is being sought, and demonstrate that the proposed mitigating measures provide equal or greater compensation to offset the non-complying aspect of the stormwater management system on site. The developer must also ensure the long-term maintenance of the project as outlined in Chapters 8 and 9 of the NJDEP Stormwater BMP Manual. If the Township agrees to control a new stormwater management facility, arrangement in the form of an escrow account will be made to stipulate the payment amount,

schedule, and long term responsibilities of the facility to ensure that it functions to capacity.

2. Complete a project identified by the municipality as equivalent to the environmental impact created by the exemption or variance- If a suitable site cannot be located in the same drainage area as the proposed development, as discussed in Option 1, the mitigation project may provide measures that are not directly equivalent to the impacts for which the variance or exemption is being sought, but that addresses the same issue to an equal or greater extent. For example if a variance is given because the 80% TSS requirement has not been met, the selected project may address water quality impacts that increase the siltation of a waterbody within the applicable HUC 14 subwatershed.

   If these criteria cannot be met on-site, the Township has identified the retrofitting of existing basins as the primary mode for mitigation measures to follow. Through clearing sediment, expanding capacity, or bringing the basin into compliance with water quality standards, mitigation opportunities have the potential to significantly improve stormwater management issues that face Marlboro Township.

   As many of the developments in Marlboro were constructed with curb and gutter drainage, stormwater is often funneled and released directly into an adjoining waterbody. As these methods are contrary to the stormwater management BMP’s outlined in the NJDEP’s BMP Manual and endorsed through the adoption of the State’s new stormwater regulations, the retrofitting of these basins can dramatically improve the Township’s existing stormwater management infrastructure. Mitigation projects can utilize a number of BMP’s to offset the stormwater management of a project that is unable to comply with the new design standards. However, these BMP’s, which may include sand filters, vegetative filters, or the incorporation of a manufactured treatment device, among other possibilities, will be engineered and applied on a site-by-site basis. In general, the engineering necessary to determine the mitigative measure that is most suited for a particular basin is the responsibility of the applicant, and must be determined and submitted by the applicant along with the particular projects site plan.

Marlboro has identified locations within the Deep Run watershed where BMP's can be utilized to improve stormwater management and reduce flooding. These locations, which have been identified by catchment area, offer developers specific options such as improving culverts, or upgrading infrastructure to use as mitigative alternatives. Applicants that are seeking waivers for development proposals located within the Deep Run watershed are strongly encouraged to reference the ten Subwatershed Impact Assessment and Implementation Project Summary Tables that are included within the, Identification And Evaluation of Impairments Within the Deep Run Watershed Report. Copies of the aforementioned report are available at the Township Clerk's office.

3. Provide funding for municipal projects that would address existing stormwater impacts- The third and least preferable stormwater mitigation option is for the applicant to provide funding or partial funding for an environmental enhancement project that has been identified in the Municipal Stormwater Management Plan, or towards the development of a Regional Stormwater Management Plan. The contributed funds must be equal or greater than the cost to implement the required on-site stormwater measure for which relief is requested including the cost of land, easements, engineering design, and long-term maintenance. However, with this option Marlboro Township, not the applicant is ultimately responsible for the design, property acquisition, construction, construction management, maintenance (short term and long term) and follow-up study, unless that project and its prospective costs have been outlined within this Mitigation Plan.

   An applicant may also propose a mitigation project on a site that has not been identified in this mitigation plan. However, in each circumstance the selection of a mitigation project must incorporate the following requirements:

   (a) The project must be within the same area that would contribute to the receptor impacted by that project. If there is no specific sensitive receptor impacted, then the location of the mitigation project may be located anywhere within the municipality, preferably at a location that would provide the greatest benefit.
   (b) Legal authorization must be obtained to construct the project at the location selected.

This includes the maintenance and any access needs for the project through throughout its operation.

(c) The mitigation project should be located close to the original development project. If possible, the mitigation project should be located at a similar distance from the identified sensitive receptor. This distance should not be based on actual location, but on a similar hydraulic distance to the sensitive receptor. For example, if a project for which a waiver is obtained discharges to a tributary, but the closest location discharges to the main branch of a waterway, it may be more beneficial to identify a location discharging to the same tributary.

(d) It is preferable to have one location that addresses any and all of the performance standards waived, rather than one location for each performance standard.

(e) The project location must demonstrate no adverse impacts to other properties.

(f) For projects addressing the groundwater recharge performance standard, a mitigation project site upstream of the location of the actual project site is preferable to a downstream location.

(g) Mitigation projects that address stormwater runoff quantity can choose to provide storage for proposed increases in runoff volume, as opposed to a direct peak flow reduction.

(h) Mitigation projects that address stormwater runoff quality can choose to address another pollutant other than TSS, which has been demonstrated to be of particular concern, such as streams that have been listed as an impaired waterbody for other pollutants. However, care must be taken to ensure that waivers that are granted for the TSS requirements do not result in the impairment of an existing unimpaired area.

C. Requirements for Mitigation Projects

1. Whether the applicant is proposing the mitigation project, or Marlboro has identified the project within this Mitigation Plan, the following requirements for mitigation must be included in the project submission.

(a) Impact from noncompliance- The applicant must provide a table to show the required values, and the values provided in the project, and include an

alternatives analysis that demonstrates that on-site compliance was maximized to the greatest extent practicable.

(b) Narrative and Supporting Information Regarding the Need for the Waiver- The waiver cannot be granted for a condition that was created by the applicant. If the applicant can provide compliance with the stormwater rules through a reduction in the scope of the project, the applicant has created the condition and a waiver cannot be issued. The applicant must provide a discussion and supporting information of the site conditions that would not allow the construction of a stormwater management facility to provide compliance with these requirements, and/or if the denial of the application would impose an extraordinary hardship on the applicant brought about by circumstances peculiar to the subject property. The site conditions to be considered are soil type, the presence of karst geology, acid soils, a high groundwater table, unique conditions that would create an unsafe design, as well as conditions that may provide a detrimental impact to public health, welfare, and safety.

(c) Sensitive Receptor- Identify the sensitive receptor related to the performance standard for which a waiver is sought. Demonstrate that the mitigation site contributes to the same sensitive receptor.

(d) Design of the Mitigation Project- Provide the design details of the mitigation project. This includes, but is not limited to, drawings, calculations, and other information needed to evaluate the mitigation project.

(e) Responsible Party- The mitigation project submission must list the party or parties responsible for the construction or maintenance of the mitigation project. Documentation must be provided to demonstrate that the responsible party is aware of, has authority to perform, and accepts the responsibility for the construction and the maintenance of the mitigation project. Under no circumstances shall the responsible party be an individual single-family homeowner.

(f) Maintenance- The applicant must include a maintenance plan that addresses the maintenance criteria at N.J.A.C. 7:8-5 as part of a mitigation plan. In addition, if the maintenance responsibility is being

transferred to Marlboro Township, or another entity, the entity responsible for the cost of the maintenance must be identified. Marlboro provides applicants with the option of conveying the mitigation project to the Township, provided that the applicant funds the cost of maintenance of the facility in perpetuity.

(g) Permits- The applicant is solely responsible to obtain any and all necessary local, State, or other applicable permits for the identified mitigation project or measure. The applicable permits must be obtained prior to the municipal approval of the project for which the mitigation is being sought.

(h) Construction- The applicant must demonstrate that the construction of the mitigation project coincides with the construction of the proposed project. A certificate of occupancy or final approval by the municipality for the application permit cannot be issued until the mitigation project or measure receives final approval. Any mitigation projects proposed by the municipality to offset the stormwater impacts of the Township's own projects must be completed within six months of the completion of the municipal project, in order to remain in compliance with Marlboro's NJPDES General Permit.

2. In all instances the Board having jurisdiction over the application shall have the power to impose additional conditions as may be appropriate under the circumstances of the application. The Board shall make specific findings of fact and conclusions consistent with Section 104 showing the inability or impracticality of strict compliance with the Ordinance and Stormwater Management Plan and (2) justifying the approval of the applicant's mitigation plan, in order to satisfy the reporting requirements of the municipality's NJPDES permit and other applicable state law requiring the submission of reports to any state or county review agency. The Board shall also have the power to require mitigation as to applications, which have received waivers from the New Jersey Department of Environmental Protection.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so

adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage, publication and approval by the county review agency in accordance with applicable law.

The following Res. #2006-369 (Award of Bid – Capital Road Improvement Program – Lucas Brothers) was introduced by reference, offered by Councilman Rosenthal, seconded by Council Vice President Cantor and passed on a roll call vote of 5 – 0 in favor.

RESOLUTION # 2006-369

A RESOLUTION AWARDING A CONTRACT TO LUCAS BROTHERS, INC. FOR THE 2006 CAPITAL ROAD IMPROVEMENT PROGRAM

WHEREAS, the Township Council authorized the acceptance of bids for the 2006 Capital Road Improvement Program; and

WHEREAS, bidders were required to submit a Base Bid and Alternate Bids for Alternates A1 through A4; and

WHEREAS, seven (7) bids were received as follows:

(1) Lucas Brothers, Inc. 80 Amboy Road, Morganville, New Jersey 07752 for a Base Bid of $248,939.50, Alternate A1 $56,690.00, Alternate A2 $92,328.00, Alternate A3 $49,514.00 and Alternate A4 $75,801.00;

(2) Meco, Inc., P.O. Box 536, Clarksburg, New Jersey 08510 for a Base Bid of $254,834.50, Alternate A1 $67,816.25, Alternate A2 $94,675.50, Alternate A3 $59,528.50, Alternate A4 $105,553.75;

(3) Stavola Contracting Company, Inc., P.O. Box 482, Red Bank, New Jersey 07701 for a Base Bid of $276,685.00, Alternate A1 $64,390.00, Alternate A2 $101,820.00, Alternate A3 $60,940.00 and Alternate A4 $86,950.00;

(4) Sea View General Contracting Co., Inc., P.O. Box 1165, Sayreville, New Jersey 08871 for a Base Bid of $279,617.50 (adjusted for bidder’s mathematical error), Alternate A1 $64,218.00

(adjusted for bidder's mathematical error), Alternate A2 $94,806.00, Alternate A3 $50,336.00 and Alternate A4 $61,825.00;

(5) A. Montone Construction, Inc., 88 Stillwell Road, Holmdel, New Jersey 07733 for a Base Bid of $296,266.94, Alternate A1 $72,314.95, Alternate A2 $110,846.02, Alternate A3 $60,940.00 and Alternate A4 $86,950.00;

(6) Star of the Sea Concrete, 448 Marlboro Road, Old Bridge, New Jersey 08857 for a Base Bid of $300,826.00, Alternate A1 $76,995.00, Alternate A2 $116,023.00, Alternate A3 $64,408.30 and Alternate A4 $68,106.00; and

(7) Lucas Construction Group, Inc., 1696 Englishtown Road, Old Bridge, New Jersey 08857 for a Base Bid of $342,226.50, Alternate A1 $79,582.50, Alternate A2 $117,941.00, Alternate A3 $84,838.00 and Alternate A4 $66,355.00; and

WHEREAS, Administration, the Township Engineer and the Township Attorney have reviewed the bids received and identified the lowest responsive bidder as Lucas Brothers, Inc.; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township to award a contract to Lucas Brothers, Inc. for the Base Bid and Alternates A2, A3 and A4 in the total amount of $466,582.50.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the contract for the 2006 Capital Road Improvement Program for the Base Bid and Alternates A2, A3 and A4 be and hereby is awarded to Lucas Brothers, Inc. and that the Mayor is authorized to execute a contract, in a form legally acceptable to the Township Attorney, between the Township of Marlboro and Lucas Brothers, Inc. in accordance with the bid proposal submitted by Lucas Brothers, Inc. and in an amount not to exceed $466,582.50; and

BE IT FURTHER RESOLVED that the Chief Financial Officer has executed a Certification of Funds for this contract, which is attached hereto, and that sufficient funds are available for said contract from Account Number X-04-55-960-960; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be provided to each of the following:

a. Lucas Brothers, Inc.
b. Township Administrator

c. Township Engineer
d. Chief Financial Officer
e. Gluck Walrath, LLP

The following Res. #2006-370 (Award of Professional Service Contract – Architect David Singer – Recreation Center) was introduced by reference, offered by Council Vice President Cantor, seconded by Councilman Rosenthal and passed on a roll call vote of 5 – 0 in favor.

RESOLUTION # 2006-370

A RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES CONTRACT BETWEEN DAVID B. SINGER, A.I.A. AND THE TOWNSHIP OF MARLBORO FOR ARCHITECTURAL SERVICES IN CONNECTION WITH A WATER PROBLEM AT THE RECREATION CENTER OFFICE

WHEREAS, the Township of Marlboro is in need of professional architectural services in connection with a water problem at the Recreation Center office; and

WHEREAS, the Township has requested proposals through a non-fair and open process pursuant to the provisions of N.J.S.A. 19:44A-20.4; and

WHEREAS, David B. Singer, A.I.A. has submitted the attached proposal dated January 6, 2006 (the "Proposal") to the Township of Marlboro to provide the aforementioned professional architectural services for an amount not to exceed $5,420.00; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the municipality to hire David B. Singer, A.I.A. to provide the required professional services in accordance with the Proposal; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that

notice of the awarding of the contract be published in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to execute a contract, in a form legally acceptable to the Township Attorney, between David B. Singer, A.I.A. and the Township of Marlboro to provide the required professional services in accordance with the Proposal; and

BE IT FURTHER RESOLVED, that the Certified Financial Officer has executed a Certification of Funds for the contract, which is attached hereto, and that sufficient funds are available for said contact from Account Number X-04-55-955-912.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

a. David B. Singer, A.I.A.
   P.O. Box 374
   Stockton, NJ 08559
b. Township Public Works Department
c. Township Administrator
d. Township Chief Financial Officer
e. Gluck Walrath, LLP

The following Res. #2006-371 (Award of Professional Service Contract – Birdsall Survey – Farmland – former DiMeo Property) was introduced by reference, offered by Councilman Pernice, seconded by Council Vice President Cantor and passed on a roll call vote of 5 – 0 in favor.

RESOLUTION # 2006-371

A RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES CONTRACT BETWEEN BIRDSALL ENGINEERING, INC. AND THE TOWNSHIP OF MARLBORO FOR PROFESSIONAL SERVICES TO PROVIDE A FARMLAND SURVEY

WHEREAS, the Township of Marlboro is in need of professional services to provide a farmland survey; and

WHEREAS, the Township has requested proposals through a non-fair and open process pursuant to the provisions of N.J.S.A. 19:44A-20.4; and

WHEREAS, Birdsall Engineering, Inc. has submitted the attached proposal dated October 2, 2006 (the "Proposal") to the Township of Marlboro to provide the aforementioned professional services for an amount not to exceed $13,500.00; and

WHEREAS, Birdsall Engineering, Inc. has completed and submitted a Business Entity Disclosure Certification which certifies that Birdsall Engineering, Inc. has not made any reportable contributions to a political or candidate committee in the Township of Marlboro in the previous one year, and that the contract will prohibit Birdsall Engineering, Inc. from making any reportable contributions through the term of the contract; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the municipality to hire Birdsall Engineering, Inc. to provide the required professional services in accordance with the Proposal; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to execute a contract, in a form legally acceptable to the Township Attorney, between Birdsall Engineering, Inc. and the Township of Marlboro to provide the required professional services in accordance with the Proposal; and

BE IT FURTHER RESOLVED, that the Certified Financial Officer has executed a Certification of Funds for the contract, which is attached hereto, and that sufficient funds are available for said contact from the Open Space Account.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

a. Birdsall Engineering, Inc.
611 Industrial Way West

Eatontown, NJ 07724-2213
b. Township Administrator
c. Township Chief Financial Officer
d. Gluck Walrath, LLP

The following Res. #2006-372 (Authorizing SCAT Agreement with Monmouth County) was introduced by reference, offered by Council Vice President Cantor, seconded by Council President Morelli and passed on a roll call vote of 5 – 0 in favor.

RESOLUTION # 2006-372

AUTHORIZING AN AGREEMENT WITH THE COUNTY OF MONMOUTH, PURSUANT TO N.J.S.A. 40:8A-1 ET SEQ., THE INTERLOCAL SERVICES ACT, FOR SPECIAL CITIZENS TRANSPORTATION SYSTEM (SCAT) SERVICES TO ELIGIBLE PERSONS

WHEREAS, The Board of Chosen Freeholders of the County of Monmouth (hereinafter, "the County") has established the Special Citizens Area Transportation System (hereinafter, "SCAT"); and

WHEREAS, the Township of Marlboro has requested that the County provide services to eligible residents and wishes to enter into an agreement with the County for the provision of transportation services to eligible residents of Marlboro Township for the year 2007;

WHEREAS, the Interlocal Services Act, N.J.S.A. 40:8A-1 et seq., authorizes local units as defined in said Act to enter into joint agreements for the provision of governmental services, including such transportation services; and

WHEREAS, the proposed contract for the provision of said services is on file in the Township Clerk's office in accordance with the provisions of N.J.S.A. 40:8A-4:

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Township Clerk are hereby authorized and directed to execute the proposed interlocal services agreement for the provision of the aforementioned services.

BE IT FURTHER RESOLVED that a duly certified copy of this resolution be forwarded to all respective parties.

As the consent agenda, the following Resolutions were introduced by reference, offered by Council President Morelli, seconded by Council Vice President Cantor and

passed on a roll call vote of 5 - 0 in favor: Res. #2006-373 (Raffle License Dugan School PTA – On Premise 50/50) and Res. #2006-374 (Reject & Rebid – Union Hill Park & Ride Lot Improvements).

RESOLUTION # 2006–373

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 15-06 (On Premise 50/50) be and it is hereby granted to Frank Dugan School PTA, 48 Topanemus Road, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle will be held on October 27, 2006 at 7 - 10 PM at Frank Dugan School, 48 Topanemus Road, Marlboro, N. J. 07746.

RESOLUTION # 2006-374

BE IT RESOLVED by the Township Council of the Township of Marlboro that the advertisement for the acceptance of bids for

Union Hill Commuter Lot Improvements

be and hereby is cancelled and that no bids were received in response to said advertisement.

BE IT FURTHER RESOLVED that the Business Administrator be and she is hereby authorized and directed to readvertise for open, competitive bids for

Union Hill Commuter Lot Improvements

as required by law.

At 9:55PM, Council President Morelli moved that the meeting go into executive session for reason of discussing property acquisition and contract negotiations. This was seconded by Councilman Pernice, and as there was no objection, the Clerk was asked to cast one ballot. Recess was called, and the executive session commenced at 10:20PM.

RESOLUTION # 2006-375

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 5th day of October, 2006

to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely litigation, acquisition of property and contract negotiations.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned item and that such executive session should take approximately 100 minutes. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action may be taken following the executive session.

At 12:05PM, Council President Morelli moved that the meeting be opened. This was seconded by Councilman Pernice, and as there was no objection, the Clerk was asked to cast one ballot.

At 12:06PM, Councilman Pernice moved that the meeting be adjourned. This was seconded by Council President Morelli, and as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED: NOVEMBER 13, 2006

OFFERED BY: PERNICE	AYES: 4
SECONDED BY: MORELLI	NAYS: 0
	ABSENT: CANTOR

_____	_____
ALIDA DE GAETA	PATRICIA MORELLI
MUNICIPAL CLERK	COUNCIL PRESIDENT